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public, the field installation shall re-evaluate the proposed action in accordance with the provisions of paragraph (b)(5) of this section.

(8) For major NASA actions significantly affecting the quality of the human environment, the evaluations required above will be included in any statement prepared under Section 102(2)(C) of the National Environmental Policy Act.

(9) In accordance with §1216.202(b), the Assistant Associate Administrator for Facilities Engineering, NASA Headquarters, will conduct periodic on-site reviews to assure that the action is carried out in accordance with the stated findings and plans for the proposed action, in compliance with the Executive orders.

[44 FR 1089, Jan. 4, 1979, as amended at 56 FR 50506, Oct. 7, 1991]

Subpart 1216.3 Procedures for Implementing the National Environmental Policy Act (NEPA)

AUTHORITY: The National Aeronautics and Space Act of 1958, as amended (51 U.S.C. 20101 *et seq.*); The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR parts 1500–1508).

SOURCE: 77 FR 3103, Jan. 23, 2012, unless otherwise noted.

§ 1216.300 Scope.

(a) This subpart implements NEPA, setting forth NASA's policies and procedures for the early integration of environmental considerations into planning and decision making.

(b) Through this subpart, NASA adopts the CEQ regulations implementing NEPA (40 CFR parts 1500–1508) and supplements those regulations with this subpart 1216.3, for actions proposed by NASA that are subject to NEPA requirements. This subpart is to be used in conjunction with the CEQ regulations. Consistent with the CEQ regulations at 40 CFR part 1500.3, no trivial violation of this part shall give rise to any independent cause of action. This subpart and NASA's NEPA

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policy are available on NASA's Public Portal at <http://www.nasa.gov/agency/nepa/> (under NEPA Process).

§ 1216.301 Applicability.

This subpart applies to all organizational elements of NASA.

§ 1216.302 Responsibilities.

(a) The NASA Senior Environmental Official (SEO) (as defined in Appendix A to this subpart) is responsible for overseeing and guiding NASA's integration of NEPA into the Agency's planning and decision making. The SEO, with the assistance of the Office of the General Counsel (OGC), is responsible for developing NASA NEPA regulations and maintaining up-to-date Agency-wide NEPA guidance that fully integrates NEPA analysis into Agency planning and decision-making processes. The SEO shall monitor this process to ensure that these regulations and the associated Agency guidance are achieving their purposes. In addition, the NASA SEO is responsible for coordinating with other Federal agencies and the CEQ and consolidating and transmitting NASA's comments on EISs and other NEPA documentation prepared by other Federal agencies:

(1) The NASA Headquarters/Environmental Management Division (HQ/EMD) is delegated the SEO's overall responsibility of implementing NEPA functions and guiding NASA's integration of NEPA into the Agency's planning and decision making for all NASA activities. The HQ/EMD provides advice and consultation to all NASA entities in implementing their assigned responsibilities under NEPA. Interested persons can obtain information on the status of EISs and other elements of the NEPA process by contacting the NASA NEPA Manager at HQ/EMD identified at <http://www.nasa.gov/agency/nepa/NEPATeam.html>.

(2) Each NASA Center has an environmental management office that guides and supports the working-level functions of the NEPA process, such as evaluating proposed actions; developing, reviewing, and approving required documentation; and advising project managers.

(b) The Responsible Official shall ensure that planning and decision making for each proposed Agency action complies with these regulations and with Agency NEPA policy and guidance provided by the SEO, HQ/EMD, and the Center's environmental management office. For facility programs and projects, the Responsible Official is the individual responsible for establishing, developing, and maintaining the institutional capabilities required for the execution of programs and projects (e.g., Center Director, facility manager). For other programs and projects, (e.g., space flight programs/projects, R&D programs/projects) the Responsible Official is the NASA official responsible for the formulation and implementation of the program or project (e.g., The Associate Administrator for Science Mission Directorate, Center Director).

(c) NASA must comply with this subpart when considering issuance of a permit, lease, easement, or grant to a non-Federal party and may seek such non-Federal party's assistance in obtaining necessary information and completing the NEPA process. The Responsible Official(s) for such action(s), in consultation with HQ/EMD and/or the Center's environmental management office, will determine the type of environmental information needed from the non-Federal party and the extent of the non-Federal party's participation in the necessary NEPA process.

§ 1216.303 NEPA process in NASA planning and decision making.

(a) NEPA requires the systematic examination of the environmental consequences of implementing a proposed Agency action. Full integration of the NEPA process with NASA project and program planning improves Agency decisions and ensures that:

(1) Planning and decision making support NASA's strategic plan commitment to sustainability and environmental stewardship and comply with applicable environmental statutes, regulations, and policies.

(2) The public is appropriately engaged in the decision-making process.

(3) Procedural risks and delays are minimized.

(b) Determining the appropriate level of NEPA review and documentation for a proposed NASA action will depend upon the scope of the action and the context and intensity of the reasonably foreseeable environmental impacts.

(c) The environmental impacts of a proposed Agency action must be considered, along with technical, economic, and other factors that are reasonably foreseeable, beginning in the early planning stage of a proposed action. NASA will take no action which would have an adverse environmental impact or limit the choice of reasonable alternatives prior to completion of its NEPA review.

§ 1216.304 Categorical exclusions.

(a) Categorical Exclusions (CatExs) are categories of Agency actions with no individually or cumulatively significant impact on the human environment and for which neither an EA nor an EIS is required. The use of a CatEx is intended to reduce paperwork, improve Government efficiency, and eliminate delays in the initiation and completion of proposed actions having no significant impact.

(b) A proposed action may be categorically excluded if the action fits within a category of actions eligible for exclusion (such categories are listed in paragraph (d) of this section), and the proposed action does not involve any extraordinary circumstances as described in paragraph (c) of this section:

(c) Extraordinary circumstances that will preclude the use of CatExs occur when the proposed action:

(1) Has a reasonable likelihood of having (individually or cumulatively) significant impacts on public health, safety, or the environment.

(2) Imposes uncertain or unique environmental risks.

(3) Is of significantly greater scope or size than is normal for this category of action.

(4) Has a reasonable likelihood of violating Federal, federally recognized Indian tribe, State, and/or local law or requirements imposed for the protection of the environment.

(5) Involves impacts on the quality of the environment that are likely to be environmentally controversial.